IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Patent Application

Applicants(s): Boyer et al.
Case: 502054-A-01-US (Boyer)
Serial No.: 10/672,633
Filing Date: September 26, 2003
Group: 2617
Examiner: Naghmeh Mehrpour

Title: Method and Apparatus for Delivering a Voice Mail Message With an Indication of the Presence of the Sender

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APPEAL BRIEF

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicants hereby appeal the final rejection dated April 19, 2007, of claims 1 through 24 of the above-identified patent application.

REAL PARTY IN INTEREST

The present application is assigned to Avaya Technology Corporation, as evidenced by an assignment recorded on September 26, 2003 in the United States Patent and Trademark Office at Reel 014553, Frame 0433. The assignee, Avaya Technology Corporation, is the real party in interest.

RELATED APPEALS AND INTERFERENCES

A Notice of Appeal and an Appeal Brief were filed on February 15, 2006 in related United States Patent Application Serial No. 10/672,635. The application was ordered to be returned

to the Examiner to issue and mail a PTOL-90 citing the missing references listed under the Evidence Relied Upon section.

STATUS OF CLAIMS

Claims 1 through 24 are presently pending in the above-identified patent application. Claims 1-8, 11-13, and 16-24 were rejected under 35 U.S.C. §103(a) as being unpatentable over Sahai et al. (United States Patent Application Publication Number 2002/0076010 A1) in view of Moore et al (United States Patent Application Publication Number 2003/0185360) and claims 9, 10, and 14-15 were rejected under 35 U.S.C. §103(a) as being unpatentable over Sahai et al. in view of Moore et al., in further in view of Haim (United States Patent Number 6,718,014). Claims 1, 2, 4, 12, 17, 18, and 20 are being appealed.

STATUS OF AMENDMENTS

There have been no amendments filed subsequent to the final rejection.

SUMMARY OF CLAIMED SUBJECT MATTER

Independent claim 1 is directed to a method for delivering a voice mail message to a recipient (page 4, lines 1-22; FIG. 1: 130), comprising: receiving the voice mail message from a sender (page 11, lines 17-18; FIG. 1: 110); obtaining a presence status (FIG. 4: 440) of the sender from a presence server (page 11, lines 20-22; FIG. 1: 300); and delivering the voice mail message to the recipient with an indication of a presence of the sender, the indication including an identification of at least one device where the sender is present (page 11, lines 22-24).

Independent claim 12 is directed to a method for delivering a voice mail message to a recipient (page 4, lines 1-22; FIG. 1: 130), comprising: receiving the voice mail message from a sender (page 11, lines 17-18; FIG. 1: 110); obtaining a presence status (FIG. 4: 440) of the sender (page 11, lines 20-22); and providing a mechanism for the recipient to automatically respond to the sender at a device where the sender is believed to be present (page 5, lines 14-16).

Independent claim 17 is directed to an apparatus for delivering a voice mail message to a recipient (page 4, lines 1-22; FIG. 1: 130), comprising: a memory (FIG. 2: 202); and at least

one processor (FIG. 2: 215), coupled to the memory, operative to: receive the voice mail message from a sender (page 11, lines 17-18; FIG. 1: 110); obtain a presence status (FIG. 4: 440) of the sender from a presence server (page 11, lines 20-22; FIG. 1: 300); and deliver the voice mail message to the recipient with an indication of a presence of the sender, the indication including an identification of at least one device where the sender is present (page 11, lines 22-24).

In one exemplary embodiment, a presence server (FIG. 1: 300) extracts presence information from a plurality of presence data stores (page 6, line 20, to page 7, line 4; and page 9, line 21, to page 10, line 13).

In one exemplary embodiment, a presence server (FIG. 1: 300) determines a presence status of a sender based on one or more rules that aggregate extracted presence information (page 6, line 20, to page 7, line 4; and page 9, line 21, to page 10, line 13).

STATEMENT OF GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

Claims 1-8, 11-13, and 16-24 were rejected under 35 U.S.C. §103(a) as being unpatentable over Sahai et al. in view of Moore et al.

ARGUMENT

Independent Claims 1, 12 and 17

Independent claims 1, 12, and 17 were rejected under 35 U.S.C. §103(a) as being unpatentable over Sahai et al. in view of Moore et al. In particular, the Examiner asserts that Sahai teaches to deliver said voice mail message to said recipient to automatically respond to the sender an indication of a presence of said sender (0028, 0037, 0039-0041, 0056). The Examiner acknowledges that Sahai fails to disclose wherein the indication including an identification of at least one device where the sender is present, but asserts that Moore discloses this limitation at paragraphs [0019] and [0088]. In the Response to Arguments section of the final Office Action, the Examiner asserts that the features upon which the applicant relies (i.e., if the called party does not answer, then the method continues at step 408, in step 408 the calling party leaves a voice mail message for the called party) are not recited in the rejected claims.

Appellants note that Sahai teaches that "the PBX modifies the voice mail message to include a statement that the calling party is either *available or unavailable*." (Abstract; see, also, FIG. 4: steps 416 and 418; paragraph 0009; paragraph 0027; and paragraph 0039.) Sahai teaches that the "presence server senses whether the calling party has indicated his or her presence via the computer or other information device" (paragraph 0009). In the text cited by the Examiner, Sahai teaches to

> [0037] note that PBX 110 has additional functionality beyond that of a commercially available PBX. As described above, PBX 110 interfaces with presence server 112. Through this interface, PBX 110 receives availability information regarding calling party 102 from presence server 112. Moreover, PBX 110 is able to include the availability information into the message left by called party 104, and convey the modified message to called party 104.
> [0038] III. Method
> [0039] The method of the invention, according to one embodiment, is illustrated in general in FIG. 4. The method begins with step 402. In step 404, a calling party telephones a called party. In step 406, the called party may or may not answer. If the called party answers, then the method concludes at step 422. If, however, the called party does not answer, then the method continues at step 408. In step 408, the calling party leaves a voice mail message for the called party. As discussed above, the voice mail message is recorded physically at a PBX. In step 410, the called party subsequently accesses the calling party's message at the PBX. In step 412, the PBX queries the presence server as to whether the calling party is available for a call back from the called party. In step 414, a determination is made regarding the calling party's availability. This step will be discussed in greater detail below. If the calling party is available, then processing continues at step 416, where the message originally left by the calling party is edited to include a statement that the calling party is available. If, however, the calling party is determined not to be available in step 414, then processing continues at step 418. Here the message originally left by the calling party is edited to include a statement that the calling party is absent. At step 420, the message, edited in either of steps 416 or 418, is played to the called party. The processing concludes at step 422.
> (Paragraphs 0037-0039.)

Thus, as the Examiner acknowledges, Sahai does not disclose or suggest delivering said voice mail message to said recipient with an indication of a presence of a sender, said indication *including an* ***identification of at least one device*** *where the sender is present*.

Appellants also note that Moore teaches that

> another aspect of the present invention involves a method of processing a telephone call to a called party, in which a telephone call originated by a calling party is received, a presence identifier of the called party is obtained, and then the *telephone call* is *coupled for interactive communications with the called party based on the presence identifier*. Examples of the presence identifier include: screen name, an alias, a handle, an electronic pseudonym, a chat identifier, an address of some nature, and an instant message identifier. The presence identifier is a handle that can be used to query a server for determining a communications state of the called party, indicating at least whether the called party is available to accept delivery of instant communications.
> (Paragraph [0019]; emphasis added.)

Moore, however, does not disclose or suggest delivering said ***voice mail message*** to said recipient with an indication of a presence of a sender, said indication *including an* ***identification of at least one device*** *where the sender is present*. Moreover, Appellants note that there is *no disclosure* in either Moore or Sahai to combine the technique of Moore based on a *telephone call* with the methods of Sahai based on a *voice mail message* and maintain that a person of ordinary skill in the art would not look to combine the techniques of the cited references.

Thus, the Examiner has failed to establish a *prima facie* case of obviousness in that there exists no motivation to combine the references, and further, even if combinable, the references collectively do not teach each and every limitation of the independent claims. *Cf* M.P.E.P. §2143. Independent claims 1 and 17 require delivering said ***voice mail message*** to said recipient with an indication of a presence of said sender, said indication *including an identification of at least one device where said sender is present*.

Regarding claim 12, Appellants note that, in the text cited by the Examiner, Sahai teaches that,

> in alternative embodiments, presence server 112 is connected (via network infrastructure 114) to one or more other information devices of calling party 102, in addition to (or instead of) computer 108A. Such devices can include, for example, a telephone or PDA of calling party 102. In a manner similar to the operation described above, presence server 112 would sense whether calling party 102, using such an information device, has indicated his presence. Presence server 112 would then inform PBX 110 accordingly.
> (Paragraph 0028.)

Sahai also teaches that

> [0040] Note that in an alternate embodiment of the invention, a query method (e.g., step 412) is not used. Rather, the current likely availability of the calling party can be sent to the PBX as soon as it is known, or on a periodic basis. In this manner, the PBX can be automatically updated regarding the calling party's availability. The PBX can then modify a voice mail message as appropriate, without having to query the presence server.
> (Paragraph 0040.)

Contrary to the Examiner's assertion, Sahai does ***not*** disclose or suggest delivering a voice mail message to a recipient to ***automatically*** *respond to the sender* at a device where said sender is believed to be present. Appellants could also find no disclosure or suggestion in either Sahai or Moore of *providing a* ***mechanism*** for a recipient to ***automatically*** *respond to a sender* at a device where the sender is believed to be present, *wherein a* ***voice mail message*** *is received from the sender*. In addition, as noted above, the Examiner has failed to establish a *prima facie* case of obviousness in that there exists no motivation to combine the references. Independent claim 12 requires receiving said ***voice mail message*** from a sender; obtaining a presence status of said sender; and providing a *mechanism for said recipient to automatically respond to said sender at a device where said sender is believed to be present*.

Thus, Sahai et al. and Moore et al., alone or in combination, do not disclose or suggest delivering said voice mail message to said recipient with an indication of a presence of said sender, said indication including an identification of at least one device where said sender is present, as required by independent claims 1 and 17, and do not disclose or suggest receiving said voice mail message from a sender; obtaining a presence status of said sender; and providing a mechanism for said recipient to automatically respond to said sender at a device where said sender is believed to be present, as required by independent claim 12.

Additional Cited References

Haim was also cited by the Examiner for its disclosure of a method/apparatus wherein said recipient can respond to said sender in real time. Appellants note that Haim is directed to "a system and method for improving the quality of life for telephone users by providing a real-time screening of a telephone call without the ringing of the telephone call." (Col. 1, lines 10-13.)

Haim does not, however, disclose or suggest delivering a voice mail message to a recipient with an indication of a presence of a sender, the indication *including an identification of at least one device where the sender is present*, and does not disclose or suggest *providing a mechanism for the recipient to automatically respond to the sender at a device where the sender is believed to be present*.

Thus, Haim does not disclose or suggest delivering said voice mail message to said recipient with an indication of a presence of a sender, said indication including an identification of at least one device where the sender is present, as required by independent claims 1 and 17, and does not disclose or suggest receiving said voice mail message from a sender; obtaining a presence status of said sender; and providing a mechanism for said recipient to automatically respond to said sender at a device where said sender is believed to be present, as required by independent claim 12.

Claims 2 and 18

Claims 2 and 18 were rejected under 35 U.S.C. §103(a) as being unpatentable over Sahai et al. in view of Moore et al. In particular, the Examiner asserts that Sahai discloses wherein said presence server extracts presence information from a plurality of presence data stores (paragraphs [0031]-[0032]). Appellants, however, could find no disclosure or suggestion in either Sahai, Moore, or Haim that a presence server extracts presence information from a *plurality of presence data stores*.

Thus, Sahai et al., Moore et al., and Haim, alone or in combination, do not disclose or suggest wherein said presence server extracts presence information from a plurality of presence data stores, as required by claims 2 and 18.

Claims 4 and 20

Claims 4 and 20 were rejected under 35 U.S.C. §103(a) as being unpatentable over Sahai et al. in view of Moore et al. In particular, the Examiner asserts that Sahai discloses wherein said presence server determines said presence status of said sender based on one or more rules that aggregate extracted presence information (paragraph [0032]). Appellants, however, could find no disclosure or suggestion in either Sahai, Moore, or Haim that a presence server determines a presence status of a sender based on one or more rules that *aggregate extracted presence information*.

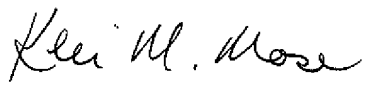
Thus, Sahai et al., Moore et al., and Haim, alone or in combination, do not disclose or suggest wherein said presence server determines said presence status of said sender based on one or more rules that aggregate extracted presence information, as required by claims 4 and 20.

Conclusion

The rejections of the cited claims under section 103 in view of Sahai et al., Moore et al., and Haim, alone or in any combination, are therefore believed to be improper and should be withdrawn. The remaining rejected dependent claims are believed allowable for at least the reasons identified above with respect to the independent claims.

The attention of the Examiner and the Appeal Board to this matter is appreciated.

Respectfully,



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CLAIMS APPENDIX

1. A method for delivering a voice mail message to a recipient, comprising:

receiving said voice mail message from a sender;

obtaining a presence status of said sender from a presence server; and

delivering said voice mail message to said recipient with an indication of a presence of said sender, said indication including an identification of at least one device where said sender is present.

2. The method of claim 1, wherein said presence server extracts presence information from a plurality of presence data stores.

3. The method of claim 2, wherein said presence server translates said presence information to a standard format

4. The method of claim 1, wherein said presence server determines said presence status of said sender based on one or more rules that aggregate extracted presence information

5. The method of claim 1, wherein said recipient responds to said sender in another domain.

6. The method of claim 1, wherein said presence information indicates if the message sender can be reached at one or more indicated devices

7. The method of claim 1, wherein said presence information is obtained from a user registration process.

8. The method of claim 1, wherein said presence information is obtained by observing activities of a user

9. The method of claim 1, wherein said recipient can respond to said sender in real time.

10. The method of claim 1, wherein said recipient can respond to said sender in non-real time.

11. The method of claim 1, wherein said recipient can respond to said sender using a non-textual form of communication.

12. A method for delivering a voice mail message to a recipient, comprising:

receiving said voice mail message from a sender;

obtaining a presence status of said sender; and

providing a mechanism for said recipient to automatically respond to said sender at a device where said sender is believed to be present.

13. The method of claim 12, wherein said providing step allows said recipient to respond to said sender in another domain.

14. The method of claim 12, wherein said recipient can respond to said sender in real time.

15. The method of claim 12, wherein said recipient can respond to said sender in non-real time

16. The method of claim 12, wherein said recipient can respond to said sender using a non-textual form of communication

17. An apparatus for delivering a voice mail message to a recipient, comprising:

a memory; and

at least one processor, coupled to the memory, operative to:

receive said voice mail message from a sender;

obtain a presence status of said sender from a presence server; and

deliver said voice mail message to said recipient with an indication of a presence of said sender, said indication including an identification of at least one device where said sender is present.

18. The apparatus of claim 17, wherein said presence server extracts presence information from a plurality of presence data stores.

19. The apparatus of claim 18, wherein said presence server translates said presence information to a standard format.

20. The apparatus of claim 17, wherein said presence server determines said presence status of said sender based on one or more rules that aggregate extracted presence information.

21. The apparatus of claim 17, wherein said recipient responds to said sender in another domain.

22. The apparatus of claim 17, wherein said presence information indicates if the message sender can be reached at one or more indicated devices.

23. The apparatus of claim 17, wherein said recipient can respond to said sender using a non-textual form of communication.

24. The apparatus of claim 17, wherein said presence status indicates a presence status of said sender across a plurality of domains.

EVIDENCE APPENDIX

There is no evidence submitted pursuant to § 1.130, 1.131, or 1.132 or entered by the Examiner and relied upon by appellant.

RELATED PROCEEDINGS APPENDIX

There are no known decisions rendered by a court or the Board in any proceeding identified pursuant to paragraph (c)(1)(ii) of 37 CFR 41.37.